



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

OR: ENG

Before: Judge Erik Møse
Registry: Mr. Adama Dieng

Decision of: 7 August 2001

**THE PROSECUTOR
VERSUS
FERDINAND NAHIMANA
JEAN-BOSCO BARAYAGWIZA
HASSAN NGEZE
Case No. ICTR-99-52-T**

**ORDER FOR TEMPORARY TRANSFER
OF TWO DETAINED WITNESSES (AHI & DCH)
PURSUANT TO RULE 90bis OF THE RULES OF PROCEDURE AND EVIDENCE**

The Office of the Prosecutor:

Stephen Rapp
William T. Egbe
Alphonse Van
Simone Monasebian
Charity Kagwi
Elvis Bazawule

Counsel for the Defence

Jean- Marei Biju-Duval
Diana Floyd III
Alfred Pognon

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the “Tribunal”),

1. The Prosecutor has requested an order pursuant to Rule 90bis of the Tribunal’s Rules of Procedure and Evidence Rules”) for the temporary transfer of two detained witnesses. under the pseudonyms AHI and DCH from Rwanda to the seat of the Tribunal in Arusha. The Prosecutor’s application is dated 16 July 2001, but was filed with the Registry and received by the Chamber on 6 August 2001. It also contains a request for the prolongation of the stay of another witness, which will be dealt with separately.

2. According to the Prosecutor, witness AHI is detained at the Gisenyi prison and witness OCH is detained at Muhima prison in Kigali. In a letter of 2 August 2001 addressed to the Tribunal’s Deputy Prosecutor, the Rwandan Ministry of Justice confirmed that the presence of the two witnesses in question is not required for any criminal proceedings in Rwanda and that the presence of the witnesses in Arusha will not extend the period of their detention.

3. A summary of expected testimony of these two witnesses as well as their non redacted testimonies have been disclosed by the Prosecutor to Defence Counsel pursuant to Rule 73bis of the Rules. It is the Prosecutor’s estimation that witness AHI will testify on 5-6 September 2001, and witness DCH on 10-11 September 2001.

4. Rule 90 bis (B) requires that a transfer order shall be issued only after prior verification that the following conditions are met:

“(i) The presence of the detained witness is not required for any criminal proceedings in progress in the territory of the requested State during the period the witness is required by the Tribunal;

(ii) Transfer of the witness does not extend the period of his detention as foreseen by the requested State”.

THE TRIBUNAL

SATISFIED that these conditions have been met in the present case,

HEREBY

ORDERS, pursuant to Rule 90bis of the Rules, that the two witnesses named in the Prosecutor's motion and annexes and pseudonymed therein as witnesses AHI and DCH, shall be transferred temporarily to the Tribunal's Detention facilities in Arusha in order to testify in the trial of the accused;

REQUESTS the Government of Rwanda to comply with this order and to arrange for the transfer in liaison with the Tribunal's Registrar and the Tanzanian Government;

INSTRUCTS the Registrar to:

- transmit this order to the Governments of Rwanda and Tanzania;
- ensure the proper conduct of the transfer, including the supervision of the witnesses in the Detention Unit of the Tribunal; and to
- remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State and which may possibly affect the length of the temporary detention and, with the shortest delay, inform the Trial Chamber Of any such change.

Arusha, 7 August 2001.

Erik Møse
Judge

[Seal of the Tribunal]